



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lt. Governor

## NEW MEXICO ENVIRONMENT DEPARTMENT

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BUTCH TONGATE  
Cabinet Secretary

J. C. BORREGO  
Deputy Secretary

Original via UPS - Copy via Electronic Mail

December 12, 2017

Mr. William K. Honker, Director  
Water Quality Protection Division (6WQ)  
U. S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

**Re: State Certification**

Dear Mr. Honker:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit NM0029238, CDS Rainmakers Utilities, LLC

If any, comments and conditions are enclosed on separate sheets.

U.S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above- referenced NPDES Individual Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, sections 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978) and complies with state Water Quality Standards [*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC)*] , the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 NMAC), USEPA jointly with NMED issued a public notice of the draft permit and announced a public comment period posted on the NMED web site at [www.nmenv.state.nm.us/swqb/WQA/Notice](http://www.nmenv.state.nm.us/swqb/WQA/Notice) on October 28, 2017. The NMED public comment period ended on November 30, 2017. NMED did not receive any comments.

Sincerely,

Shelly Lemon, Bureau Chief  
Surface Water Quality Bureau

cc: (w/ enclosures)  
Ms. Evelyn Rosborough, USEPA (6WQ-NP) via e-mail  
Mr. Brent Larsen, USEPA (6WQ-PP) via e-mail  
Permit Writer, USEPA (6WQ-PP) via e-mail  
CDS Rainmakers Utilities, LLC; PO Box 11228; Alto, NM 88312

Mr. Sam Coleman, Acting Regional Administrator  
Environmental Protection Agency  
1445 Ross Avenue  
Dallas, TX 75202-2733

December 12, 2017

STATE CERTIFICATION

RE: **CDS Rainmakers Utilities, LLC**

Dear Mr. Coleman:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- ☒ (X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- ☐ ( ) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (see attachments)
- ☐ ( ) denies certification for the reasons stated in the attachment
- ☐ ( ) waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 827-2798, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,

Shelly Lemon  
Bureau Chief  
Surface Water Quality Bureau

CDS Rainmakers Utilities, LLC  
State Comments on the Proposed NPDES Permit  
NM0029238  
December 12, 2017

Comments that are not conditions of Certification:

1. NMED notes that in permittee has had several exceedances for Total Suspended Solids (TSS) and E. coli.

The permit writer may develop on a case-by-case basis a replacement schedule (*Procedures for implementing national pollutant discharge elimination system permits New Mexico – NMIP, March 2012.* )Because this appears to be a highly variable discharge, NMED suggests the frequency of monitoring for TSS and E. coli be increased to twice a month rather than the suggested once monthly.